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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NGUYEN, STEVEN H D	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/037,165	MOLLER ET AL.	
	Examiner	Art Unit	
	Steven HD Nguyen	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5-7,9-12 and 14-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-7,9-12 and 14-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5-7, 9, 11-12 and 14-17 rejected under 35 U.S.C. 102(e) as being anticipated by Lindblom (USP 6914878).

Regarding claims 1, 12, 14 and 17, Lindblom discloses a method and system for controlling data flow between a plurality of input devices and a plurality of output devices (Fig 1, ref 26) through a first or a second switch fabric interposed there between (Fig 1, ref 23 and 25), wherein the first switch fabric is the operative switch fabric (Fig 1, ref 23 is Active), and the second switch fabric is in a standby mode (Fig 1, Ref 25 is passive) producing a control signal prior to causing the first switch fabric to assume the standby mode and the second switch fabric to assume the operational mode (Fig 7, generating a signal when the active switch is in fault/maintenance mode); in response to the control signal, terminating the transmission of signals into the first switch fabric from the plurality of input devices (Fig 7A, Ref 7-5C, col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41); in response to the control signal, starting a drain timer (Fig 7A, Ref 7-5E, 7-5B and col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41) wherein during a drain time interval the first switch fabric transmitted data to the output devices; and when the drain timer has timed out, control the first

switch fabric to the standby mode and the second switch fabric to the operation mode (Fig 7A, Ref 7-5B, 7-5D and col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41); starting a restart timer (Fig 7A, Ref 7-5B, 7-8B and col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41)) and when restart timer has timed out, sending signals from the plurality of input devices into the second switch fabric (Fig 7A, Ref 7-5D, Fig 10 and col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41).

Regarding claim 2, Lindblom discloses at any time there is data in transit through the first switch fabric, and wherein the drain timer has a time-out value selected such that under normal operating conditions all data will be routed out of the first switch fabric when the drain timer reaches the time-out value (col. 13, lines 15-29 and col. 19, lines 27-32).

Regarding claim 3, Lindblom discloses (d1) at the plurality of input devices, receiving a switch empty signal from the first switch fabric when there is no data in the first switch fabric (fig 7a, Ref 7-8a via 7-8c, col. 13, lines 15-28); when the drain timer has timed out, controlling the first switch fabric to the standby mode and the second switch fabric to the operation mode (Fig 7A, Ref 7-5B, 7-5D); (d3) when the drain timer has timed out or the switch empty signal has been received, sending data from the plurality of input devices into the second switch fabric (Fig 7A, Ref 7-5D and 7-11).

Regarding claim 5, Lindblom discloses at the plurality of output devices, receiving a switch empty signal from the first switch fabric when there is no data in the first switch fabric (Fig 7A, ref 7-8B and 7-10); when the drain timer has timed out or the switch empty signal has been received, controlling the first switch fabric to the standby mode and the second switch

fabric to the operation mode (Fig 7A, ref 7-10 and col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41).

Regarding claim 6, Lindblom discloses a method for controlling data flow between a plurality of input devices and a plurality of output devices through a first or a second switch fabric interposed there between, wherein the first switch fabric is the operative switch fabric, and the second switch fabric is in a standby mode (Fig 1), said method comprising producing a control signal prior to causing the first switch fabric to assume the standby mode and the second switch fabric to assume the operational mode (Fig 7, generating a signal when the active switch is in fault/maintenance mode); in response to the control signal, terminating the transmission of data into the first switch fabric from the plurality of input devices (Fig 7A, Ref 7-5C, col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41); providing a switch-empty signal from the first switch fabric to the plurality of input devices when no data is detected in transit through the first switch fabric (Fig 7A, ref 7-8B and 7-10); and in response to the switch empty signal, starting restart timer and at the plurality of input devices, when restart timer times out sending data into the second switch fabric (Fig 7A, Ref 7-5D, Fig 10 and col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41).

Regarding claim 7, Lindblom discloses providing a switch-empty signal from the first switch fabric to the plurality of input devices when no data is in transit through the first switch fabric (Fig 7A, Ref 7-8A to 7-8C, Sync cell is empty signal); in response to the control signal, starting a drain timer (Fig 7, Ref 7-5C, 7-5E and Fig 11); and if the drain timer has timed out or the empty switch signal has been received, starting the restart timer (Fig 7A, Ref 7-8a to 7-10, 7-

5C, 7-5E, 7-5D and 7-11, col. 10, line 45 to col. 11, lines 32 and Col. 12, line 24 to col. 13, line 41, sync cell is empty signal).

Regarding claim 9, Lindblom discloses the plurality of input and the output devices are associated with a packet data network (See col. 1, lines 15-30).

Regarding claim 11, Lindblom discloses the control signal is provided in response to a fault in the active switch fabric (Fig 7, Ref 7-1A).

Regarding claim 15, Lindblom discloses wherein the drain timer has a time-out value selected such that under normal operating conditions all data will be routed out of the active switch fabric when the drain timer has timed-out (Fig 9, Ref 9-18 and 9-22).

Regarding claim 16, Lindblom discloses the restart timer has a time-out value selected such that each one of the plurality of line cards is enabled for sending and receiving data traffic at about the same time (Fig 9, Ref 9-17 and 9-25).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Lindblom (USP 6914878).

Regarding claim 10, Lindblom fails to disclose the plurality of input and the output devices are associated with a telephony network and wherein the data represents voice signals. However, the examiner takes an official notices that a switch or router for using to convey cell/packet that contains voice, data video is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art to implement the switch or router in a telephony network in order to prevent data loss during a failure.

Response to Arguments

6. Applicant's arguments filed 6/30/06 have been fully considered but they are not persuasive.

In response to pages 7-9, the applicant states that Lindblom fails to disclose a previously designated active switch fabric transmits data to the output devices during the drain time interval and the previously designated standby switch fabric is controlled to the active state when the drain time interval has ended. In reply, Lindblom discloses during PCT, a switch fabric flushes data to the outputs (Fig 7, Ref 7-5B, 7-8A, 7-8C) and designated the former passive switch becomes the new active switch after PCT expired (Fig 7, Ref 7-5D) and restart timer is time out, send the data to the new active switch (Fig 7, Ref 7-5E, 7-11 and 7-10) as stated in claims 1-3, 5, 12, 14-17.

In response to pages 7-9, the applicant states Lindblom fails to disclose a "when a drain timer time out" and "the end of a drain timer interval". In reply, Lindblom does not need disclose this limitation because the switch empty signal that is generated by detecting if no data in transit, is used to start a restart timer. The claim is only required one trigger in each step ( ) and (d) as stated in claim 6.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven HD Nguyen
Primary Examiner
Art Unit 2616
7 September 2006